

Appl. No. 09/499,871  
Amdt. Dated June 28, 2006  
Reply to Final Office action of February 28, 2006

### **REMARKS/ARGUMENTS**

Claims 1-50 are pending in the present application.

This amendment is in response to the Final Office Action mailed February 28, 2006, supported by a concurrently filed Request for Continued Examination (RCE). In the Final Office Action, the Examiner rejected claims 1-50 under 35 U.S.C. §102(e). Claims 1, 11, 21, 31, and 41 have been amended. Reconsideration in light of the amendments and remarks made herein is respectfully requested.

#### ***Response to Examiner's Arguments***

In the Final Office Action, the Examiner contends that Rochberger teaches loop-back path method the purpose of which is to provide connectivity between the source and the destination (Final Office Action, page 4, paragraph number 3). Applicants respectfully disagree. Rochberger merely discloses establishing switched virtual circuits. As discussed in the previous response, Rochberger merely disclose configuring the hardware for loopback operation between a destination node and a source node. A destination node configures its hardware for loopback operation in response to a RESTORE\_SETUP message (Rochberger, col. 14, lines 22-24). A source node program its hardware to support loopback in response to the RESTORE\_CONFIRM message (Rochberger, col. 14, lines 22-24). Accordingly, the loop-back method does not connect to the primary connection or the secondary connection.

The Examiner further contends that one way to read the present limitation on the Rochberger is to relate the switching element of the present invention to the switching fabric 312 of Rochberger, relate the loop-back path to the loop-back path 313, and relate the first node to the source node (Final Office Action, page 4, paragraph number 3). However, as discussed in the previous response, the path 313 merely shows that the data that would be output to output port 316 is now looped back to the switching fabric, at a similar point as data input to input port 318 (Rochberger, col. 16, lines 30-32). In contrast, in the present invention, the loop-back path is connected to the primary connection during normal mode and to secondary connection when there is a failure condition at the primary connection.

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***Rejection Under 35 U.S.C. § 102***

In the Final Office Action, the Examiner rejected claims 1-51 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,272,107 issued to Rochberger et al. ("Rochberger"). Applicants respectfully traverse the rejection and contend that the Examiner has not met the burden of establishing a prima facie case of anticipation.

Rochberger discloses a method of path restoration in an ATM network utilizing point to point switched virtual circuits. A source node sends a restore\_setup message to a destination node (Rochberger, col. 14, lines 16-19). In response to this restore\_setup message, the destination node configures its hardware for loopback operation (Rochberger, col. 14, lines 22-24). Then, the destination node sends a restore\_confirm message to the source node (Rochberger, col. 14, lines 27-30). In response to the restore\_confirm, the source node programs its hardware to support loopback (Rochberger, col. 14, lines 38-40).

Rochberger does not disclose, either expressly or inherently, (1) a loop-back path to provide connectivity between the first and second nodes, the first node having a primary connection and a secondary connection, and (2) a switching element coupled to the loop-back path and the first node to connect the loop-back path to the primary connection during the normal mode and to the secondary connection when there is a failure condition at the primary connection.

Rochberger merely discloses that the Tx buffers are looped back to the Tx direction and the data that would be output to output port is looped back to the switching fabric, at a similar point as data input to the input port (Rochberger, col. 16, lines 16-19). Therefore, the loopback path does not provide connectivity between the first and the second nodes. Furthermore, Rochberger merely discloses that the source node attempts to calculate a secondary (redundant) path from the source node to the destination node (Rochberger, col. 14, lines 40-43). Therefore, there is no switch element to switch the connectivity from the primary connection to a secondary connection, or to connect the loop-back path to the primary connection during the normal mode and to the secondary connection when there is a failure condition at the primary connection. To clarify this aspect of the invention, claims 1, 11, 21, 31, and 41 have been amended.

To anticipate a claim, the reference must teach every element of the claim. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or

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inherently described, in a single prior art reference.” Vergegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987). “The identical invention must be shown in as complete detail as is contained in the...claim.” Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ 2d 1913, 1920 (Fed. Cir. 1989). Since the Examiner failed to show that Rochberger teaches or discloses any one of the above elements, the rejection under 35 U.S.C. §102 is improper.

Therefore, Applicants believe that independent claims 1, 11, 21, 31, and 41 and their respective dependent claims are distinguishable over the cited prior art references. Accordingly, Applicants respectfully request the rejection under 35 U.S.C. §102(e) be withdrawn.

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### ***Conclusion***

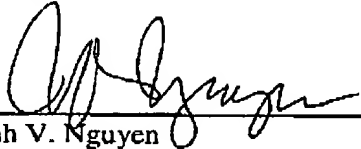
Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: June 28, 2006

By

  
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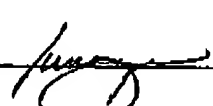
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